

Testimony of Amanda Masters
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City Council Hearing on Brownfields & Brownfields Opportunities Areas Program
Committee on Environmental Protection
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New York Lawyers for the Public Interest, Inc. (NYLPI)

My name is Amanda Masters, and I am an attorney at New York Lawyers for the Public Interest (NYLPI). NYLPI is a non-profit organization formed in 1976, by the City Bar. Since 1993, our Environmental Justice and Community Development Project has offered legal assistance and community organizing resources to environmentally-distressed neighborhoods. We will soon release an updated edition of our free BROWNFIELDS BASICS manual, and have been working closely with communities of color and low income communities in New York City who wish to address the blight of brownfields, including community members in Bushwick, Brooklyn seeking to clean up and redevelop several large vacant lots that serve as environmental, social, and economic nuisances in the neighborhood.

I will briefly address the three topics of this hearing.

1 The Resolution demanding that the Governor and State Legislature execute the MOU to implement distribution of BOAP funding.

We support this proposal and join the council in urging Albany to act.

The Brownfield Opportunity Area Program (BOAP) is a critical piece of the Brownfields law because it provides community-based organizations with up to 90 percent of eligible costs to complete area-wide brownfield redevelopment plans and site assessments.

CBOs need these BOAP funds to end environmental blight caused by brownfields in New York's underserved and minority communities.

CBOs met New York State's application deadline of June 30, 2004. Now it is about time for New York State to do its part.

2 The City Program for Remediation and Reuse of Brownfields

We also support this proposal. It is particularly important that the proposed local law places “*emphasis on communities of low and moderate income that are disproportionately burdened by the clustering of brownfield sites.*” Section 24-613.

This emphasis on chronic underutilization should be the touchstone of Brownfields development.

It is important to continue to focus on communities of color and low income communities unfairly burdened by brownfields, and not allow any definition of “brownfields” to become so expansive as to allow private developers to cherry-pick projects like the New York Times Company’s new headquarters building, at Eighth Avenue and 40th Street in Manhattan, to be deemed a property that needs special incentives attached to it in order to encourage developers.

This proposed local law calls upon the City to use various tools to facilitate Brownfields redevelopment, such as: rezoning, incentives, and prioritization of city resources associated with community revitalization at agencies, including but not limited to those allocated to HPD, the department of city planning (DCP), the economic development corporation (EDC) and the department of small business services.

Consistent with this attention to City agency resources, we urge the council to consider requiring city agencies such as HPD and EDC to give **prior notice** to Community Boards before they sell, auction, transfer, or otherwise dispose of Brownfield property that is city owned. Setting up a mechanism for giving such prior notice to Community Boards would require relatively small agency resources, and would help ensure that community members have the opportunity to participate.

3 The Proposal regarding Tax Lien Foreclosure and Site Control for CBOs

The proposed amendments to the administrative code regarding tax lien foreclosures are an important opportunity for communities to have agency in shaping what their neighborhoods look like. For too long, the tax lien foreclosure process has been exploited by speculators who purchase abandoned properties as investments, do not improve the lots, and thus prevent community development by the community.

The proposed amendment creates the definition of “revitalization property” for any property that is (1) subject to tax lien foreclosure and (2) a brownfield and (3) either abandoned, underutilized, or recommended for designation by a CBO, and then mandates that the City or third party owner (with the guidance of the Advisory Board) designate a CBO to assume “site control” and develop end use plans for all “revitalization properties.”

This site control over “revitalization properties” could be a powerful tool for CBOs and communities. But it will be important to pay attention to the details of implementation:

- a. The Requests for Qualifications (RFQs) should be inclusive in their search for CBOs. The requirement of “demonstrated capacity” for the CBOs is very important, but should not be so strictly interpreted as to disallow new and growing organizations of community members coming together now to organize and work towards addressing brownfields in their neighborhoods.
- b. Further, the proposed amendment lists four (4) specific functions, one of which must be included in any final use plan the CBO creates. These four: affordable housing for low and moderate income individuals, community services, commercial or industrial small business space – if the community residents are employed in the new jobs, and projects to “eliminate blight or revitalize or stabilize” low and moderate income communities, are all important goals. However, again, it will be important to pay attention to the details of implementation. For instance, the small businesses should be held to some objective standard regarding local hiring, and not just give lip service to the concept of local hiring. Likewise, the fourth category of “residential, mixed-use, commercial or industrial projects which are designed to eliminate blight or revitalize or stabilize low or moderate income communities” should not be interpreted as a loose catch-all allowing development of commercial projects that may not be wanted in communities of low income and communities of color.
- c. Again, we urge the council to require city agencies to give **prior notice** to Community Boards before they transfer Brownfield property that is city owned. Prior notice to Community Boards would require relatively small agency resources, and would help ensure that community members have the opportunity to participate.
- d. Finally, with regard to public input, the community outreach plan described in subpart “c” of section 11-412.4 states that the CBO and developer must submit (at a minimum) letters of support from the community members, and a “summary of opportunities for public input during the remedial action.” When this provision is implemented, care should be taken to ensure that the public input happens early enough in the formulation of the end use plan to be meaningful.

In conclusion, the proposed amendment regarding tax lien property, the proposed local law creating a comprehensive brownfields program, and the resolution calling upon Albany to execute the MOU and release the BOAP funding to appropriate applicants, are all important steps towards bringing the promise of the October 7, 2003 State Brownfield Law to New York City neighborhoods that have too long been neglected.